

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Guzman	Team: Squad #4	CCRB Case #: 201907856	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/29/2019 4:13 PM	Location of Incident: East 128th Street and 1st Avenue.	Precinct: 25	18 Mo. SOL 12/29/2020	EO SOL 8/15/2021	
Date/Time CV Reported Thu, 09/05/2019 9:07 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/05/2019 9:07 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Weber	26421	948439	025 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nelson Romero	06201	964739	025 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Weber	Abuse: Kevin Weber stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Kevin Weber	Abuse: Police Officer Kevin Weber questioned § 87(2)(b) § 87(2)(b)	

Case Summary

On July 26, 2019, § 87(2)(b) called the CCRB and filed the following complaint on behalf of her husband § 87(2)(b) § 87(2)(b) § 87(2)(b) did not witness this incident.

On June 20, 2019, at approximately 4:13 p.m., PO Kevin Weber and PO Nelson Romero, both of the 25th Precinct, stopped the vehicle in which § 87(2)§ 87(2)(b) was an occupant in the vicinity of East 128th street and 2nd Avenue in Manhattan (**Allegation A: Abuse of Authority, § 87(2)(g)**). PO Weber asked § 87(2)§ 87(2)(b) “Do you smoke Marijuana?” and “Is there marijuana in the vehicle?” (**Allegation B: Abuse of Authority, § 87(2)(g)**).

§ 87(2)§ 87(2)(b) was issued summonses for operating a vehicle with no insurance and operating a vehicle with an expired registration as a result of this incident.

The investigation obtained 2 body-worn camera recordings.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Kevin Weber stopped the vehicle in which § 87(2)(b) § 87(2)(b) was an occupant.

It is undisputed that § 87(2)§ 87(2)(b) was operating a vehicle with an expired registration.

§ 87(2)§ 87(2)(b) testified (BR 01) that he did not know why he was pulled over, but acknowledged that his registration was expired.

PO Weber testified (BR 02) that he observed § 87(2)§ 87(2)(b) vehicle moving with a Florida license plate, conducted a search of the license plate, and learned that the associated registration was expired. PO Weber stopped § 87(2)§ 87(2)(b) to issue him a summons for the VTL violation.

PO Romero (BR 03) testified that he observed a Florida license plate on § 87(2)§ 87(2)(b) vehicle, but did not learn why § 87(2)§ 87(2)(b) vehicle was pulled over until after the incident. Both PO Weber and PO Romero testified that it was PO Weber’s decision to stop § 87(2)§ 87(2)(b) vehicle. XX

Per Vehicle and Traffic Law § 401 (BR 04), it is unlawful to operate an unregistered vehicle in New York State.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Kevin Weber questioned § 87(2)(b) § 87(2)(b)

It is undisputed that PO Weber questioned § 87(2)(b) about marijuana.

§ 87(2)(b) testified that PO Weber asked him if he smoked and § 87(2)(b) replied, “Yes.” § 87(2)(b) initially stated that PO Weber asked him if there was marijuana in his vehicle, but later clarified that PO Weber asked him if there were drugs in his vehicle. § 87(2)(b) responded, “No. If you want, you can search my car.” PO Weber then stated that he did not want to search § 87(2)(b) car. § 87(2)(b) was unresponsive to follow-up phone calls regarding

whether there was rolling paper inside his vehicle.

PO Weber's BWC (BR 05) captures the entirety of the interaction with § 87(2)(b). PO Weber approaches the driver's side of § 87(2)(b) vehicle, informs § 87(2)(b) that his registration is expired, and then asks § 87(2)(b) for his license, registration, and insurance. PO Weber asks § 87(2)(b) "Do you smoke marijuana?" § 87(2)(b) replies, "Marijuana? Yes." PO Weber asks, "Is there marijuana in the vehicle?" § 87(2)(b) replies, "No, you can check." PO Weber did not take any further investigative action. The contents of the vehicle are not clearly visible from the camera angle. It is unclear whether there is rolling paper inside the vehicle.

PO Weber testified that he asked § 87(2)(b) if he smoked marijuana because he observed a package of white rolling paper within § 87(2)(b) vehicle. The rolling paper package had an image of Bob Marley. PO Weber recognized the rolling paper package as commonly used for smoking marijuana. PO Weber did not recall where in the vehicle this rolling paper was located, despite being shown his BWC recording. PO Weber did not recall asking § 87(2)(b) about the rolling paper package. PO Weber did not smell an odor of marijuana and did not believe § 87(2)(b) was under the influence of marijuana. PO Weber did not observe marijuana within the vehicle and, aside from the rolling paper package, there was nothing else to indicate that § 87(2)(b) might have been in the possession of marijuana or smoking marijuana.

Patrol Guide Procedure 212-11 (BR 06) states that "Founded suspicion of criminal activity arises when there is some present indication of criminality based on observable conduct or reliable hearsay information. "Per New York v. Hollman, 79 N.Y.2d 181 (1992), (BR 07) "an officer, acting under the common law right of inquiry, may ask pointed and accusatory questions of an individual when the officer possesses a founded suspicion that criminality is afoot."

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) § 87(2)(b) has been party (BR 08).
- This is the first complaint to which § 87(2)(b) has been party.
- PO Kevin Weber has been a member of service 10 years and has been a subject in 8 CCRB complaints and 14 allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of December 27, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 09).
- According to the Office of Court administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 10).

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date